



TOWN OF

KENSINGTON

APRIL
2003
JOURNAL

April 28th 7:30 p.m. Public Hearings
**Public Hearing on a Variance request for the former Sunoco Gas Station
at 10625 Connecticut Avenue**

Public Hearing on a Variance request for 10212 Kensington Parkway

Town Meeting immediately following the Hearings

April 28th Town Meeting Agenda
Introduction of FY 2003/2004 Town Budget

Events

Municipal Government Week Pot Luck Luncheon
April 23rd, 12 noon at Town Hall

Earth Arbor Day Celebration
The Town of Kensington will be holding its annual celebration
on April 26th from 10:00 a.m. – 12:00 p.m. at Town Hall

Farmers' Market
The Farmers' Market opens on May 3rd 8:00 a.m. – 12 p.m.
at the Kensington Train Station

If you would like to receive brief e-mail updates regarding Town business please sign up for e-Announcements on the home page of the Town's website (www.tok.org)
Contact us at 3710 Mitchell Street, Kensington, MD 20895
Phone: 301-949-2424; Fax: 301-949-4925;
E-mail: mayor.council@tok.org; Web Site: www.tok.org

Upcoming Meeting Schedule

May 5, 7:00 p.m. Work Session

May 19, 7:30 p.m. Town Meeting Agenda

Candidate Forum

Public Hearing/Adoption of 2003/2004 Town Budget

Forum on zoning related regulations of Montgomery County with the following agencies: Dept. of Permitting Services, M-NCPPC, HPC, and Board of Appeals.

Summer Meeting Schedule

June 9 at 7:00 p.m. Work Session

July 14 at 7:00 p.m. Work Session

August 11 at 7:00 p.m. Work Session

***** TOWN ELECTIONS *****

JUNE 2, 2003 6 P.M. TO 9 P.M.

TOWN HALL (ARMORY)

3710 MITCHELL STREET

KENSINGTON, MD 20895

TWO COUNCIL MEMBER POSITIONS

TWO YEAR TERMS

Nominations: Persons may be nominated for elective office in the Town by filing a certificate of nomination at the Town Office by 4:00 p.m. on or before the second Monday in May (May 12, 2003).

Voter Qualifications: Every person who is a citizen of the U.S., at least 18 years of age, has resided within the corporate limits of the Town for thirty days and is registered in accordance with the provisions of the Town Charter shall be a qualified voter of the Town and shall be entitled to vote at any or all Town elections.

Voter Registration: Registration by a Town resident with the Montgomery County Board of Supervisors of Elections shall be deemed registration for Town elections. Applications for such registration must be received at the County Board on the fifth Monday prior to an election (April 28, 2003). Please note: you must be registered by the County with a Town address.

Town citizens, who do not register to vote with the County, may register with the Town at the Town office, Monday through Friday, 8:00 a.m. to 4:00 p.m. Town registration books close on May 27, 2003.

Absentee Voting: Any qualified and registered voter may apply at the Town office during regular office hours for an absentee ballot if he or she cannot be present at an upcoming Town election.

Volunteer Needed

A volunteer is needed to serve on the Town's Audit Committee. If you are interested, please contact the Town Office for more information.

Building Permits Issued

Removal of tanks at 10625 Connecticut Avenue
Installation of kiosks at 3817 Dupont Avenue
New addition at 10225 Montgomery Avenue
Erect carport at 3416 Oberon Street

For Your Information

Safeway has submitted their application to Maryland-National Capital Park and Planning Commission for consideration and review. The Commission will begin reviewing this application on May 5, 2003. For additional information you can contact M-NCPPC at (301) 495-4595.

The Town has received the Tree City USA Award for the fifth year and will be receiving the Maryland Plant Community Award at the Agricultural History Farm Park on Sunday April 27th.

Thank You

Thank you to Ann Pfautz and Lorraine Kennedy for assembling the Journal last month.

Thank you to Madge Darneille for donating an American Flag that flew over the Capitol which will be used at Ernest Memorial Park.

Permit Information

Town Building Permit - A reminder that when you build an addition to your home or business, add a shed, install a fence, or perform any other work that requires a County Building Permit, you also need a Town permit. The cost for a Town permit is \$1 per \$1,000 of estimated construction cost with a \$10 minimum payable at the time of application. If you have any questions, please contact the Town Office.

Driveways - Repair or repaving of the section of the driveway on public rights-of-way as well as a driveway apron may not proceed without the required permit and bond/cash deposit required by the Town.

Dumpsters - Dumpsters may not be parked in the street without the required permission and bond/cash deposit required by the Town.

Tree Permit - A tree permit is needed to take down trees which are six inches or more in diameter, four feet above the ground in the Historic District. You must receive an HPC permit before removal.

Message from the Mayor's Desk

Mayor and Council Reports have been suspended this month.

Director of Operations Report

Yard Waste

Why doesn't the Town take my yard waste bags? The Town hauls yard waste to an independent recycler. This recycler does not accept bags in the yard waste. Hauling to independents saves the Town money compared to the County. Your yard waste bags are placed on the curb for your reuse or disposal.

Leafs

Leafs need to be placed in bags or cans for collection. The Town only uses the leaf machine during the fall (during announced time periods).

Branches and Brush

Branches and brush can not be greater than 3" in diameter. Place branches and brush in bags, cans or tied in bundles not greater than 4' in length or heavier than 50 lbs.

Note: This is the season for yard clean up. Mondays are our heaviest brush day. Sometimes brush pick up carries over to Tuesday.

Town Meeting

March 31, 2003

A public hearing was held at 7:00 p.m. on a variance request for 3601 Dupont Avenue. The variance was for projections of (1) three feet into the ten-foot side yard setback and (2) one foot into the fifteen-foot dwelling to dwelling requirement. The property owner explained that the existing house is currently 7 feet from the property line except for a small section in the middle of the house and that the additional three feet was needed to square up the house for a second story addition.

Representatives from WSSC gave a presentation on their Customer Outreach Program. They explained the structure of their organization and how they are making new efforts to increase WSSC's communication with local officials and customers. They stated that they would coordinate their planned work with the Town, such as replacing fire hydrants with sidewalk repair.

There was a closed session of the Mayor, Council, and Town Attorney before the meeting began.

Mayor Raufaste called the Meeting to order at 8:15 p.m. with Council Members Carr, Cowan, Pfautz, and Scharman, Town Attorney Rachel McGuckian, Director of Operations Furman, and Clerk-Treasurer Engels. The Pledge of Allegiance was recited. A Moment of Silence was observed.

The Mayor and Council discussed the decision to continue negotiations with the Spring Bilingual Montessori Academy (SBMA). Council Member Cowan stated that the applicant does not need approval from the Town for the use of the building or the park and that negotiating an agreement would achieve greater control than no agreement. The Mayor stated that the final proposal from the school will be circulated to the Council and will not be signed until a majority of the Council has agreed to the proposal. Council Member Scharman requested a motion to allow the public to speak to issues on the latest proposal submitted by SBMA. She stated it was different from the proposal presented by SBMA at 4 previous meetings where public comment was taken. She also requested the latest proposal be made available to the public. The Council agreed that there had already been significant public input and that it was not necessary to have the latest proposal available since it was not agreed upon. She also requested that a permitting system for the parks be passed so that a formal agreement with SBMA is not the only way to control SBMA usage of the park. The Council deferred discussion of a park permitting system to the next Work Session. The Mayor informed residents that if they have comments or input on the negotiating process to send them in to her so that they can be taken into consideration.

Due to time constraints, the Mayor and Council did not present monthly reports.

The Mayor proclaimed the week of April 21-25 as Municipal Government Week and informed residents that a pot luck luncheon will be held on April 23rd at 12 noon in the Town Hall Community Center.

The budget was not discussed and will be discussed at the Work Session on April 7th.

The upcoming meeting schedule was set as follows: May 19th Town Meeting, June 9 Work Session, July 14th Work Session, August 11th Work Session, and September 8th Work Session. There will be only Work Sessions in the months of June, July, and August.

In response to a resident's request, a speaker system will be provided for meetings in the drill hall.

Council Actions

Council Member Pfautz moved to support the variance request at 3601 Dupont Avenue for 3 feet into the 10 foot side yard line setback and one foot into the fifteen feet dwelling to dwelling requirement due to the exceptional narrowness and, extraordinary situation presented, and because the variance request would not be detrimental to the neighboring properties. There was no opposition from the neighboring properties. Council Member Scharman seconded and it passed unanimously.

Council Member Pfautz moved to close the meeting of the Council at 7:30 p.m. to confer with the Town Attorney on legal issues. Council Member Carr seconded and it passed unanimously.

The majority of the Council agreed to move forward with the negotiations with the Spring Bilingual Montessori Academy and agreed to follow the decision at the March 3rd

Work Session not to have further testimony on the issue. It was suggested that any other comments should be sent to the Mayor.

Council Member Cowan moved to have the Mayor continue negotiations with the Spring Bilingual Montessori Academy based on the revised agreement language approved by the Council in closed session with the understanding that any changes to the revised agreement will be circulated to the Council for comment and include the following provisions: that the Town has the authority to regulate parks in the future and may do so even though it currently does not and that the agreement does not imply any acceptance of or acquiescence to any County and State permits that may need to be granted. Council Member Pfautz seconded the motion and it passed with a three to one vote. Council Member Scharman voted against the motion. The Mayor concurred with the majority.

Council Member Cowan moved to grant the variance request for roof overhangs and window wells at 10109 and 10111 Frederick Avenue for the following reason: that the Town's Building Code is silent and does not address roof overhangs and window wells and that the County does not consider window wells part of the structure and allows roof overhangs to project into the setback requirements. Council Member Carr seconded the motion. Council Member Pfautz opposed the motion and stated that the applicant was informed of concerns over the size of new construction and loss of green space at the September 30, 2002 Town Meeting, that the shape of the lot was not irregular or peculiar, and that as a new structure the Town Code could have been followed. There was opposition to the variance from the neighbors. Council Member Scharman abstained citing that retroactive permitting and variances are not necessary when the builder has a valid Town permit conforming to all past practices in issuing permits, and has built according to plan. She cited the need to develop an appeals process or waiting period in the Town's permit process so that neighbors would have a chance to contest a building permit. The motion passed with a 2 to 1 vote.

Council Member Pfautz moved to strictly adhere to the Town's Building Code going forward without incorporation of exemptions for projections as enumerated in the County Code and without incorporation of the exemption for window wells. Council Member Cowan seconded and it passed unanimously.

Council Member Pfautz moved to approve the minutes from the February 24, 2003 Town Meeting and March 3, 2003 Work Session as circulated. Council Member Cowan seconded and it passed unanimously.

Council Member Pfautz moved to adopt the code amendments as listed in the March 2003 Journal with amendments to number 1 and 11 to change Director of Public Works to Director of Operations. Council Member Cowan seconded and it passed unanimously.

Council Member Scharman moved to confirm the Mayor's appointments of Spencer Harrill, Eleanor Condliffe, and Wat Stewart to the Board of Supervisor of Elections and appointment of Mary O'Donnell to the Ethics Commission for a one-year term. Council Member Carr seconded and it passed unanimously.

Council Member Pfautz introduced a Proclamation to declare April 21-April 25 as Municipal Government Week. Council Member Scharman seconded and it passed unanimously.

There being no further business, the meeting adjourned at 9:25 p.m.

Work Session of Mayor & Council

April 7, 2003

The Work Session commenced at 7:00 p.m., Mayor Raufaste, Council Members Carr, Cowan, Pfautz, and Scharman, Director of Operations Furman, and Clerk-Treasurer Engels were present and the following issues were addressed:

Chris Bruch presented information to the Council on the Commercial Development Review Committee's recommendation for the Gould property on Metropolitan Avenue. He explained that a very conceptual design for the site had been proposed which would include a 19,000 square foot two story structure that would be designed similar to the train station and would have four front sides to it. He also explained that it would have additional parking for joint use by retail and CSX. He stated that the Committee supports the conceptual design of the project and encourages the Council to support it to the County Executive. The Mayor stated that Mr. Gould would continue to work with the Committee and the Town through the development phase. Council Member Carr requested that the desire for a safe pedestrian grade crossing be included in any letter sent in support. Bruch suggested that in the interim CSX could be requested to have an audible and visual signal device installed for advance warning of the train.

Bruch also expressed concerns over actions taken at the last meeting of not including any projections into the setback. He presented the Council with a suggested way for changing the Code that would clarify it for projections and infill development. The Mayor and Council stated that this would be re-addressed at the May meeting. Also the Mayor stated that a panel of experts from County agencies would be at the May meeting to explain County setbacks, variances, and appeals and answer questions.

Council Member Scharman presented a proposal for park regulations which would include a formal permitting system. The Council discussed her proposal and will continue discussion at future meetings.

Residents expressed concerns that they have not been able to have input on the latest proposal from SBMA. The Council informed residents that they are negotiating the agreement based on what the public heard in the February 24th meeting and if the proposal changed significantly they would not approve it or seek resident input.

The monthly correspondence was reviewed.

The minutes from the March 31, 2003 Town Meeting were reviewed.

The Mayor stated that a petition had been received opposing the use of the SBMA at 3514 Plyers Mill Road.

The Mayor informed the Council that Safeway has filed their application with M-NCPPC.

The Mayor and Council discussed the FY04 budget and reviewed projected revenues and expenditures. Increasing taxes, using surplus to balance the budget and outsourcing trash were discussed. The budget will be addressed further on April 15th at 7:00 p.m. and the proposed budget will be introduced at the April Town Meeting.

There being no further business, the meeting adjourned at 10:45 p.m.

Council Actions

Council Member Cowan moved to support the concept presented by Mr. Gould and supported having the County Executive move forward with negotiations with Mr. Gould. Council Member Carr seconded and it passed unanimously.

Council Member Cowan moved to add park regulations to the agenda for future discussion. Council Member Pfautz seconded and it passed unanimously.

SPRING BILINGUAL MONTESSORI ACADEMY

SYNOPSIS

1. At the Monday January 27, 2003¹ Kensington Town meeting representatives from the Spring Bilingual Montessori Academy (SBMA) presented their proposal for use of the property at 3514 Plyers Mill Road including a limited use of St. Paul Park and install a gate in the fence. Residents expressed concerns over parking requirements, traffic, and available space at St. Paul Park. The Council withheld decision; topic will discuss at the February 2003 Town Work Session.
2. On February 3, 2003², at the Town Work Session, the Kensington Town Council discussed a letter from the Spring Bilingual Montessori Academy in follow up to their proposal at the Town Meeting on January 27th to use the building at 3514 Plyers Mill Road for a Montessori School. The Council concurred that based on resident comments concerning traffic, parking, and park usage requirements related to this proposed use, it was not in support of the SBMA proposal.
3. At the February 24, 2003³ Kensington Town Meeting representatives from SBMA presented a revised proposal for the property at 3514 Plyers Mill Road. Their proposal included a request for a gate, at their expense, to the park. Although they understood they did not need Town of Kensington permission to use the park, these representatives asked for limited use of the park between the hours of 1:00 -1:30 p.m. and 3:30 - 4:00 p.m. and they will contribute toward the Park maintenance up-keep costs. The Council agreed that the town could not, under current regulations control their use of the park, but would welcome a proposal that included such limitations and requested a revised written proposal from the school and will discuss the request at the March Work Session.
4. On March 3, 2003⁴, at the Town Work Session, the Mayor and Council discussed proposed use of 3514 Plyers Mill Road with representatives from SBMA. The Council concurred that an agreed upon set of park use limitations was preferable to the unlimited use that current regulations would permit and asked that the Town Attorney and the Academy's attorney draft an agreement for Council review that will address Council concerns relating to park usage. Based on this document a decision would be made at the March Town Meeting.

Also at this March 3, 2003 Work Session, the Council agreed that there having been significant public input over many months it was necessary to end the public portion of this process and move to a decision. Council Members Carr, Cowan, and Pfautz approved with the Mayor's concurrence. Council Member Scharman wanted further public discussion.

5. At the March 31, 2003 Town Meeting the Mayor and Council met in a duly authorized closed session with the Town Attorney to receive legal advice and review the SBMA draft agreement. After reviewing the draft agreement, the Council agreed to send a revised draft back to SBMA that mirrored the terms SBMA proposed at the February 24, 2003 Town Meeting and included other provisions as agreed by the Council. The agreement will be circulated to the Council for review when received from SBMA. A final agreement will not be signed until a majority of the Council has agreed to the proposal. The Mayor asked residents, if they wished, to send comments or input on the agreement to her and she will circulate them to the Council.
6. At the April 7, 2003 Work Session the Council expected to receive a revised agreement from SBMA; they were informed the draft would arrive the next day. Because the Council was to meet the following Tuesday (April 15, 2003) on the FY 2003-2004 budget, the Council Members decided to review the revised agreement at that time.
7. At the April 15, 2003 meeting, the Council reviewed the revised agreement. Council Member Scharman expressed general concerns on several sections of the agreement but offered no alternate language. After lengthy discussion on how her issues could be addressed, the Council, by majority agreement, reluctantly agreed to discontinue efforts to achieve an acceptable memorandum of agreement with SBMA as it appeared highly unlikely that further negotiations would be productive. Council Members Carr, Cowan and Pfautz - with the Mayor concurring - expressed disappointment that the Council could not come to consensus on limitation of St. Paul Park usage by SBMA should they receive County approvals. A letter will be sent to SBMA informing them that the Council will not be negotiating any controls on the use of the park with SBMA at this time.

¹ Kensington's *Town Journal*, February 2003, record of January 27, 2003 Town Meeting.

² Kensington's *Town Journal*, February 2003, record of February 3, 2003 Work Session.

³ Kensington's *Town Journal*, March 2003, record of February 24, 2003 Town Meeting.

⁴ Kensington's *Town Journal*, March 2003, record of March 3, 2003 Work Session.